

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**PATRICIA SCHOUPPE,**  
**Plaintiff**

**v.**

**BLAKESLEE POST OFFICE; US POST:  
OFFICE, KIRBY UPRIGHT, d/b/a  
LAMPLIGHTER ASSOCIATES; and  
KIRBY UPRIGHT, d/b/a  
LAMPLIGHTER ASSOCIARTES GP,  
Defendants**

**No. 3:16cv290**  
**(Judge Munley)**

**ORDER**

**AND NOW**, to wit, this 21st day of July 2017, after a careful review of the record, including oral argument<sup>1</sup> on defendants, Blakeslee Post Office's and US Post Office's (hereinafter "movants")<sup>2</sup> motion for reconsideration on behalf of the United States of America (Doc. 35), with regard to our order of August 16, 2016 (Doc. 28), the court finds subject matter jurisdiction is lacking in this case

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<sup>1</sup> Movants previously filed a motion to dismiss and/or for summary judgment (Doc. 14) and brief in support thereof (Doc. 18). At oral argument movants argued that subject matter jurisdiction is lacking. We construe their argument in the nature of a motion to dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). We construe the oral argument in the nature of a hearing before trial for purposes of Federal Rule of Civil Procedure 12(i).

<sup>2</sup> Defendant, Blakeslee Post Office and US Post Office are named in the complaint but the only proper defendant to an action in tort against the federal government is the United States, not a constituent government agency. See 28 U.S.C. § 2679(a); Bailey v. U.S. Marshals Serv. Headquarters, 426 Fed. App'x 44, 45-46 (3d Cir. 2011).

because plaintiff failed to exhaust her administrative remedies before filing her complaint (Doc. 1). See 28 U.S.C. § 2675; McNeil v. United States, 508 U.S. 106 (1993).

**THEREFORE**, the plaintiff's complaint is hereby **DISMISSED** pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure. We decline to retain supplemental jurisdiction over the remaining defendants. The Clerk of Court is directed to close this case.

**BY THE COURT,**

s/ James M. Munley  
**JUDGE JAMES M. MUNLEY**  
**United States District Court**